

REMARKS

I. Introduction

Upon entry of the present amendment, claims 20, 21, and 23-41 will be pending in this application. Claim 20 has been amended to clarify certain aspects of the invention. Support for these amendments appears in the specification at least at pages 5-6, and the Figures. New claim 41 has been added, support for which appears in the specification at least at page 5 and Figure 6. Claims 30 and 37 have been amended to correct grammatical errors. No new matter has been added. Based on the following remarks, Applicants respectfully request reconsideration and allowance of the pending claims.

Because the present amendments (1) do not raise new issues requiring further consideration or search, (2) do not introduce new matter, (3) materially reduce the issues for appeal, and (4) place this application into better condition for allowance, entry is appropriate under 37 C.F.R. § 1.116, and is respectfully requested.

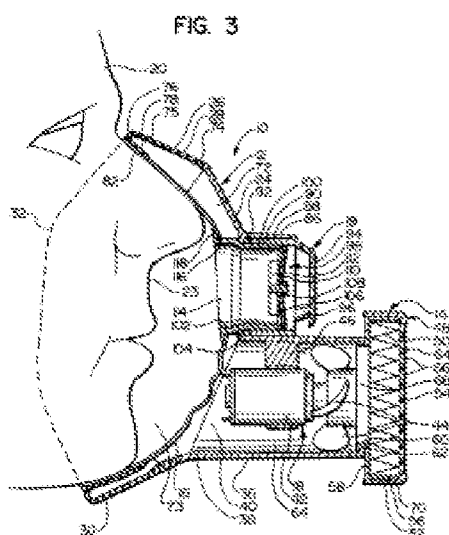
II. 35 U.S.C. § 112

The Examiner has rejected claim 20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as invention. The Examiner states that Applicant has amended the claim language to include the limitation of “a second part which secures the hygienic protection system,” but it is unclear what the hygienic protection system is secured to. Without acquiescing to the Examiner’s position, clarification has been made.

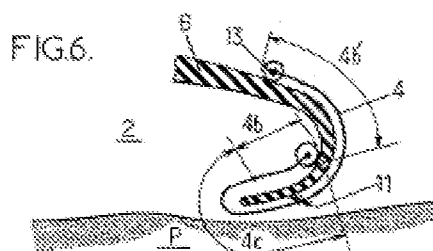
III. 35 U.S.C. § 102

The Examiner has rejected claims 20 and 23-38 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,372,130 to Stern. The Examiner submits that Stern teaches every element of the rejected claims. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

Without acquiescing to the Examiner's position and in the interest of advancing the prosecution of this application, Applicants have clarified claim 20 to recite that the second part of the hygienic protection system is disposed *in the internal groove* of the oronasal face piece. By contrast, the component characterized as the hygienic protection system (16) of Stern is clearly not positioned in the gap between the flange (78) and the outer wall portion (75) of the mask. It does not cooperate with an *internal groove*, but with an *external surface* of the flange. Compare Figure 3 of Stern with Figure 6 of the pending application, both reproduced below:



STERN



PENDING APPLICATION

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *See* MPEP § 2131; *Verdegaal Bros. V. Union Oil Co. of Calif.*, 814 F.2d 628, 631 (Fed. Cir. 1987). Because Stern does not teach the presently-claimed elements, Applicants respectfully request withdrawal of this rejection. Applicants further submit that the claims that depend from claim 20 should also be considered allowable at least for the above-discussed reasons

IV. 35 U.S.C. § 103

The Examiner has rejected claims 21, 30-35, and 38-40 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,372,130 to Stern in view of U.S. Patent No. 3,757,777 Kaufman. As to independent claim 39, the Examiner admits that Stern fails to teach that the second part (the lip securing part) is elastic but submits that Kaufman teaches a dual part filter system with a center portion made of filter media and a circumference made from a plastic. The Examiner’s position is that it would have been obvious to modify Stern to include different materials for each part. Applicants respectfully traverse this rejection and request reconsideration and withdrawal thereof.

The Examiner’s rejection of claim 39 tracks the language of claim 20. Applicants are thus unable to determine what features of Stern and Kaufman are being compared to the lip insulation part, semi-flexible lip, and lip securing part, as recited by claim 39. To the extent that this rejection is maintained, clarification is respectfully requested.

In an abundance of cooperation, Applicants have attempted to glean the Examiner’s rejection based on the comment on page 7 that Stern portion 82 is being characterized as the claimed “lip securing part” and the comment on page 8 that “the bottom portion of element

82 located below the chin disconnected from the internal groove found at element 30 which protrudes and separates from element 30” is being characterized as the claimed “lip insulation part.” This rejection is incorrect because there is no portion of Stern part 82 that is shown or described as exerting a compressing pressure on the oronasal face piece in order to maintain the hygienic protection system on the oronasal face piece, as recited by claim 39. The Examiner has failed to point to any feature in either cited reference that teaches this claimed element.

Because the cited combination does not teach the presently-claimed elements, Applicants respectfully request withdrawal of this rejection. Applicants further submit that the claims that depend from claim 39 should also be considered allowable at least for the above-discussed reasons.

CONCLUSION

For at least the above reasons, Applicants respectfully request allowance of the pending claims and issuance of a patent containing these claims in due course. If the Examiner believes there are any issues that can be resolved via a telephone conference, or if there are any informalities that can be corrected by an Examiner's amendment, he is invited to contact the undersigned.

Respectfully submitted,

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